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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DONALD MCCALLISTER,

Petitioner,

v.

BRIAN E. WILLIAMS, et al.,

Respondents.

Case No. 2:18-cv-01140-JCM-PAL

ORDER

Petitioner Donald McCallister has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and has now paid the filing fee (ECF Nos. 1-1,5). The court has reviewed the petition pursuant to Habeas Rule 4. The court notes that while McCallister attempts to incorporate state pleadings and refers to them as attached exhibits, he has failed to attach any exhibits. McCallister does also include a claim of ineffective assistance of trial counsel for failure to challenge the statute of limitations on numerous counts (see ECF No. 1-1, p. 3). Therefore, the petition shall be docketed and served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his

1 petition, he should notify the court of that as soon as possible, perhaps by means of a  
2 motion to amend his petition to add the claim.

3       Petitioner has also filed a motion for appointment of counsel (ECF No. 2). There  
4 is no constitutional right to appointed counsel for a federal habeas corpus proceeding.  
5 *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428  
6 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v.*  
7 *Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987); *Bashor*  
8 *v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However,  
9 counsel must be appointed if the complexities of the case are such that denial of  
10 counsel would amount to a denial of due process, and where the petitioner is a person  
11 of such limited education as to be incapable of fairly presenting his claims. See  
12 *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970).  
13 Here, McCallister states that he is serving a sentence of 60 years to life, and it is  
14 unclear whether the legal issues he wishes to raise may be complex. Therefore,  
15 McCallister's motion for counsel shall be granted.

16       **IT IS THEREFORE ORDERED** that the Clerk **shall file and ELECTRONICALLY**  
17 **SERVE** the petition (ECF No. 1-1) on the respondents.

18       **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada  
19 Attorney General, as counsel for respondents.


20       **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel  
21 (ECF No. 2) is **GRANTED**.

22       **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of  
23 Nevada (FPD) is appointed to represent petitioner.

1           **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the  
2 FPD a copy of this order, together with a copy of the petition for writ of habeas corpus  
3 (ECF No. 1-1). The FPD shall have thirty (30) days from the date of entry of this order  
4 to file a notice of appearance or to indicate to the court its inability to represent  
5 petitioner in these proceedings.  
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7           **IT IS FURTHER ORDERED** that after counsel has appeared for petitioner in this  
8 case, the court will issue a scheduling order, which will, among other things, set a  
9 deadline for the filing of an amended petition.  
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12           DATED: August 14, 2018.

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16           JAMES C. MAHAN  
17           UNITED STATES DISTRICT JUDGE  
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